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09/356,543	07/19/1999	MATTHEW D. BARNHART	VMS98-01PM	7963

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 06/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/356,543

Applicant(s)

BARNHART ET AL.

Examiner

Sam Rimell

Art Unit

2186 3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 14-19, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 5, 13, 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

Art Unit: 2166

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-12, 14-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorne ('293) in view of Ballantyne et al. ('821).

Dorne discloses a computer having a memory to store a software program (FIGS 2A-8B) and a physician interface (108, 116). The memory can store patient demographic information (FIG. 2B), and patient diagnosis information (FIG. 3B).

The patient diagnosis information can be sorted into different categories (left side of FIG. 3B).

The patient records can be sorted by the location of the patient's name in the memory. FIG. 2C illustrates a sorting process where the patient's name is sorted from the memory.

The software of Dorne provides guideline notifications associated with different billing codes (FIG. 3G).

All of the billing code and diagnosis codes illustrated by Dorne are specific to physicians specialized in cardiology (FIGS 3A-3G).

The system of Dorne further provides menus for medical procedures (lower right corner of FIG. 3G) and management (lower left corner of FIG. 3G).

Dorne differs from the claims in that it does not disclose a handheld processor that includes an interface to communicate with an interface device to download data.

Art Unit: 2166

However, FIG. 1 of Ballantyne et al. discloses a personal digital assistant (PDA) that comprises a physician interface (writing surface, col. 14 line 25) and an additional interface to permit communication of data to a nursing station computer via wireless link (col. 12, lines 35-37). The Ballantyne et al. device is specifically tailored to enter patient information into a patient health record (col. 13, lines 29-37) and down load the data to a nursing station (col. 14, lines 30-31).

It would have been obvious to one of ordinary skill in the art to modify the software program Dorne to be applied to the PDA of Ballantyne et al. so as to permit the physician to enter data while performing rounds in a hospital and thus improve healthcare quality (col. 2, lines 55-62 of Ballantyne et al.).

In addition, the usage of a bar code scanner to enter data into a PDA would have been obvious to one of ordinary skill in the art as a choice of design. Examiner takes Official Notice that Bar code scanners are well known in the art as a standard data input device to computers.

Claims 5, 13 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Remarks**

Applicant's amendments have addressed and overcome the rejections under 35 USC 112.

With respect to the rejection of claims 1-4, 6-12, 14-19 and 21-22 under 35 USC 103, as being obvious in view of Dorne and Ballantyne et al., applicant's arguments have been considered but are not well taken.

Art Unit: 2166

Applicant argues that Dorne does not disclose a handheld device and that Ballantyne et al. does not disclose the handling of billing information. Examiner notes that under 35 USC 103, there is no requirement that each individual reference disclose every single feature of a rejected claim. What is required is that the combination of the references together disclose the claimed features, and that motivation exists to combine the references. In the case of claims 1-4, 6-12, 14-19 and 21-22 examiner has relied on the Ballantyne et al. reference to provide a teaching that can be combined with the teachings of Dorne. The teaching of Ballantyne et al. is that a PDA can be used for data entry, and that such a PDA has advantageous use in a medical environment where a physician can enter data while performing rounds. Accordingly, it would have been obvious to modify Dorne in light of the teachings on Ballantyne et al. with this combination being motivated by the recited advantages. Unless applicant can show that the reasons for obviousness are incorrect, the rejection under 35 USC 103 will stand.

Applicant also argues that Dorne does not disclose an interface for informing physicians of "changes in guidelines". In FIG. 3G of Dorne, the step of selecting one of the codes from the code box (right hand side) opens a dialog box (160) which displays a guideline associated with a specific medical code. The guidelines are changed simply by selecting a different code, which changes the displayed guidelines in the dialog box. Accordingly, this meets the broad claim recitation in claims 1 and 9 calling for an interface which displays "changes in guidelines". It is observed that this feature does not appear in claim 16.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2166

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell  
Primary Examiner  
Art Unit 2166 3626